

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
WESTERN DIVISION**

CATHERINE S. CRYAN,)
Plaintiff,)
v.) Case No: _____
MONSANTO COMPANY,)
Defendant.)

)

NOTICE OF REMOVAL

Defendant Monsanto Company (“Monsanto”), by filing this Notice of Removal and related papers, removes this lawsuit from the Court of Common Pleas for Lucas County, Ohio this Court pursuant to 28 U.S.C. §§ 1332, 1441, and 1446.

Introduction

In this products liability lawsuit, plaintiff Catherine S. Cryan sues Monsanto Company (“Monsanto”) for injuries allegedly caused by Monsanto’s Roundup®-branded herbicides, which have glyphosate as their active ingredient. Farmers have used glyphosate-based herbicides for decades to increase crop yields. Glyphosate is one of the most thoroughly studied herbicides in the world, and glyphosate-based herbicides have received regulatory approval in more than 160

countries. Since 1974, when Monsanto first introduced a Roundup®-branded herbicide to the marketplace, the United States Environmental Protection Agency repeatedly has concluded that glyphosate does not cause cancer. Nevertheless, plaintiff alleges here that she developed cancer – specifically, non-Hodgkin’s lymphoma (“NHL”) – caused by exposure to Roundup®-branded herbicides. Numerous federal lawsuits filed by other plaintiffs alleging that they developed NHL due to exposure to Roundup®-branded herbicides have been transferred for coordinated multidistrict litigation (“MDL”) proceedings to U.S. District Judge Vince Chhabria in the Northern District of California. *See In re Roundup Prods. Liab. Litig.*, No. 3:16-md-02741-VC (N.D. Cal.).

As discussed in more detail below, Monsanto removes this lawsuit because this Court has subject matter jurisdiction based on diversity of citizenship. Monsanto is a citizen of Missouri (which is where its principal place of business is located) and Delaware (Monsanto’s state of incorporation). Plaintiff is an Ohio citizen. Accordingly, complete diversity of citizenship exists in this case as required by 28 U.S.C. § 1332. The statutory amount-in-controversy requirement is also satisfied because plaintiff seeks damages for cancer (NHL) allegedly caused by exposure to Monsanto’s Roundup®-branded herbicides.

Basis For Removal

In support of removal, Monsanto states:

1. Plaintiff commenced this action in the Court of Common Pleas for Lucas County, Ohio, on or about July 28, 2017, by filing a Complaint, captioned *Catherine S. Cryan v. Monsanto Company*, Case No. G-4801-CI-0201703526-000 (Ohio C.P. Lucas Cnty.) (the “State Court Action”). The summons and complaint were served on Monsanto August 7, 2017. A copy

of the Complaint and any other papers filed in the State Court Action, including the return receipt, are attached collectively as Exhibit A.

2. Plaintiff seeks damages for NHL allegedly caused by exposure to Monsanto's Roundup®-branded herbicides. Compl. ¶¶ 13, 112-125.

3. The Court of Common Pleas for Lucas County, Ohio, is located within the Northern District of Ohio (Western Division). Therefore, removal to this Court satisfies the venue requirements of 28 U.S.C. § 1446(a).

4. Plaintiff is a citizen and resident of Ohio, residing in Lucas County, Ohio. Compl. ¶ 12.

5. Monsanto is, and has been at all relevant times, a corporation incorporated under the laws of the State of Delaware with its principal place of business in the State of Missouri. Thus, Monsanto is a citizen of Missouri and Delaware.

6. The Complaint seeks compensatory and punitive damages, together with court costs, attorneys' fees, and all such other relief as the Court deems proper. *See* Compl. at 51 ("Prayer for Relief"). Given that plaintiff alleges that Monsanto's Roundup®-branded herbicides caused her to develop cancer (NHL), it is plausible from the face of the Complaint that she seeks damages in excess of \$75,000, exclusive of interest and costs, which satisfies the jurisdictional amount-in-controversy requirement. 28 U.S.C. § 1332(a); *see Dart Cherokee Basin Operating Co. v. Owens*, 135 S. Ct. 547, 554 (2014) ("[A] defendant's notice of removal need include only a plausible allegation that the amount in controversy exceeds the jurisdictional threshold."). In fact, other lawsuits seeking damages for NHL allegedly caused by Roundup®-branded herbicides have been filed against Monsanto in other federal courts asserting jurisdiction under § 1332(a). As discussed above, those cases have been transferred to the Northern District of California for

coordinated MDL proceedings. *See In re Roundup Prods. Liab. Litig.*, No. 3:16-md-02741-VC (N.D. Cal.).

7. In sum, this Court has original subject matter jurisdiction over this action based on § 1332(a) because there is complete diversity of citizenship between all parties (plaintiff and Monsanto) and the amount in controversy exceeds \$75,000, exclusive of interest and costs.

8. For the reasons set forth above, this lawsuit is properly removed to this Court.

9. A copy of the written notice required by 28 U.S.C. § 1446(d) is attached as Exhibit B. It will be promptly filed in the Court of Common Pleas for Lucas County, Ohio, and promptly served on plaintiff.

Dated: August 16, 2017

/s/ David P. Strup

David P. Strup
SHUMAKER, LOOP & KENDRICK, LLP
1000 Jackson Street
Toledo, OH 43604
Telephone: (419) 321-1306
Facsimile: (419) 241-6894
E-Mail: dstrup@slk-law.com
Ohio Bar Registration Number: 0034665

Attorneys for Defendant Monsanto Company

CERTIFICATE OF SERVICE

I certify that on this 16h day of August 2017, a copy of the foregoing Monsanto Company's Notice of Removal was filed electronically. Notice of this filing will be sent by operation of the Court's electronic filing system to all parties indicated on the electronic filing receipt. Parties may access this filing through the Court's system. I further certify that a true and correct copy of Monsanto Company's Notice of Removal was caused to be served upon the following counsel via electronic mail and United States mail:

James G. O'Brien
David W. Zoll
ZOLL & KRANZ, LLC
6620 W. Central Avenue, Suite 100
Toledo, OH 43617
Telephone: (419) 841-9623
Facsimile: (419) 841-9719
E-mail: david@toledolaw.com
E-mail: jim@toledolaw.com

Attorneys for Plaintiff

/s/ David P. Strup
David P. Strup
SHUMAKER, LOOP & KENDRICK, LLP
1000 Jackson Street
Toledo, OH 43604
Telephone: (419) 321-1306
Facsimile: (419) 241-6894
E-Mail: dstrup@slk-law.com
Ohio Bar Registration Number : 0034665

Attorneys for Defendant Monsanto Company